

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P611054/WO/1	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/DE2004/002425	International filing date (<i>day/month/year</i>) 03.11.2004	Priority date (<i>day/month/year</i>) 11.11.2003
International Patent Classification (IPC) or national classification and IPC C22C21/08, C22C21/02		
Applicant EADS DEUTSCHLAND GMBH		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>4</u> sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																										
<p>4. This report contains indications relating to the following items:</p> <table><tr><td><input checked="" type="checkbox"/></td><td>Box No. I</td><td>Basis of the report</td></tr><tr><td><input type="checkbox"/></td><td>Box No. II</td><td>Priority</td></tr><tr><td><input type="checkbox"/></td><td>Box No. III</td><td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td></tr><tr><td><input type="checkbox"/></td><td>Box No. IV</td><td>Lack of unity of invention</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. V</td><td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VI</td><td>Certain documents cited</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VII</td><td>Certain defects in the international application</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VIII</td><td>Certain observations on the international application</td></tr></table>			<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report																									
Name and mailing address of the IPEA/EP	Authorized officer																									
Facsimile No.	Telephone No.																									

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International application No.

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Box No. I	Basis of the report
1.	<p>With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.</p> <p><input type="checkbox"/> This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:</p> <p><input type="checkbox"/> international search (Rule 12.3 and 23.1(b))</p> <p><input type="checkbox"/> publication of the international application (Rule 12.4)</p> <p><input type="checkbox"/> international preliminary examination (Rule 55.2 and/or 55.3)</p> <p>2. With regard to the elements of the international application, this report is based on <i>(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)</i>:</p> <p><input type="checkbox"/> the international application as originally filed/furnished</p> <p><input checked="" type="checkbox"/> the description:</p> <p>pages <u>1-9</u> _____ as originally filed/furnished</p> <p>pages* _____ received by this Authority on _____</p> <p>pages* _____ received by this Authority on _____</p> <p><input checked="" type="checkbox"/> the claims:</p> <p>nos. _____ as originally filed/furnished</p> <p>nos.* <u>2-16</u> _____ as amended (together with any statement) under Article 19</p> <p>nos.* <u>1</u> _____ received by this Authority on <u>16.09.2005 with letter</u></p> <p>nos.* _____ received by this Authority on <u>of 15.09.2005</u></p> <p><input type="checkbox"/> the drawings:</p> <p>sheets _____ as originally filed/furnished</p> <p>sheets* _____ received by this Authority on _____</p> <p>sheets* _____ received by this Authority on _____</p> <p><input type="checkbox"/> a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.</p> <p>3. <input type="checkbox"/> The amendments have resulted in the cancellation of:</p> <p><input type="checkbox"/> the description, pages _____</p> <p><input type="checkbox"/> the claims, nos. _____</p> <p><input type="checkbox"/> the drawings, sheets/figs _____</p> <p><input type="checkbox"/> the sequence listing (<i>specify</i>): _____</p> <p><input type="checkbox"/> any table(s) related to sequence listing (<i>specify</i>): _____</p> <p>4. <input type="checkbox"/> This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).</p> <p><input type="checkbox"/> the description, pages _____</p> <p><input type="checkbox"/> the claims, nos. _____</p> <p><input type="checkbox"/> the drawings, sheets/figs _____</p> <p><input type="checkbox"/> the sequence listing (<i>specify</i>): _____</p> <p><input type="checkbox"/> any table(s) related to sequence listing (<i>specify</i>): _____</p>

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement																					
1. Statement	<table><tbody><tr><td rowspan="2">Novelty (N)</td><td>Claims</td><td><u>1-16</u></td><td>YES</td></tr><tr><td>Claims</td><td></td><td>NO</td></tr><tr><td rowspan="2">Inventive step (IS)</td><td>Claims</td><td></td><td>YES</td></tr><tr><td>Claims</td><td><u>1-16</u></td><td>NO</td></tr><tr><td rowspan="2">Industrial applicability (IA)</td><td>Claims</td><td><u>1-16</u></td><td>YES</td></tr><tr><td>Claims</td><td></td><td>NO</td></tr></tbody></table>	Novelty (N)	Claims	<u>1-16</u>	YES	Claims		NO	Inventive step (IS)	Claims		YES	Claims	<u>1-16</u>	NO	Industrial applicability (IA)	Claims	<u>1-16</u>	YES	Claims		NO
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	Claims		NO																			
Inventive step (IS)	Claims		YES																			
	Claims	<u>1-16</u>	NO																			
Industrial applicability (IA)	Claims	<u>1-16</u>	YES																			
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2. Citations and explanations (Rule 70.7)	<p>The submitted amendments appear to meet the requirements of PCT Articles 19 and 34(2)(b).</p> <p>This report makes reference to the following document:</p> <p>D1: PATENT ABSTRACTS OF JAPAN vol. 1998, no. 02, 30 January 1998 & JP-A-09 279280, 28 October 1997 & WPI/Derwent Abstract, AN-1998-015156</p> <p>1. Independent product claim 1</p> <p>D1 discloses an alloy, example 150, table 7, page 9, the composition of which, <u>with the exception of the Zn content</u>, falls entirely into the scope of the claimed composition (D1, PAJ and WPI/Derwent Abstracts).</p> <p>The subject matter of claim 1 is therefore novel.</p> <p>However, it is not discernible from the description of the present application what problem is solved by this distinguishing feature. In fact, no technical effect is shown or mentioned with regard to the claimed Zn content.</p>																					

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>Furthermore, all the embodiments of the application (see table 1 on page 7) lie outside of the scope of protection of claim 1 owing to the Zn content.</p> <p>An inventive step therefore cannot be recognized for the subject matter of claim 1 (PCT Article 33(3)).</p> <p><u>Comments:</u></p> <p>It should be noted that the lower range limit of the element Ti lies within the impurity range. Ti is therefore regarded as optional.</p> <p>It should also be noted that exact disclosures, such as the Si content of 1.0 wt.% of example 150 in D1, have to be interpreted as a range around this value in view of fluctuations in reproducibility and measuring errors. The claimed lower limit of "> 1.0 wt% Si" cannot be regarded as a distinguishing feature in relation to example 150 in D1.</p> <p>2. Independent use claims 14 to 16</p> <p>2.1. Use claims 14 and 15 do not define particular uses because they claim a general use of a product that is defined by a method of production. Method features do not limit a claim unless unambiguously clear properties of the product can be derived as a result of the product having been produced by means of this method, which is not the case presently.</p>

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

In light of the above arguments regarding claim 1, the subject matter of claims 14 and 15 is not regarded as inventive (PCT Article 33(3)).

- 2.2. D1 discloses the use of the known alloy as a structural element (D1, WPI/Derwent Abstract). All the features of claim 16 are therefore known from D1.

In light of the above arguments regarding claim 1, the subject matter of claim 16 is therefore not regarded as inventive (PCT Article 33(3)).

It should be noted that the term "heat-resistant safety components" in claim 16 is very broad and therefore includes all types of structural elements.

3. Dependent claims 2 to 13

Dependent claims 2 to 13 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for inventive step (PCT Article 33(3)). The reasons for this are as follows: The same argument as that made with regard to claim 1 under point 1 also applies to claims 2 to 7 and 9 to 13 (PCT Article 33(3)).

It should be noted that a person skilled in the art, on the basis of the technical, exemplary and exact disclosures for Si in D1, would seriously consider applying the technical teaching of the

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	<p>known document in the overlapping range for Si, in particular, to the range claimed in claim 3 (D1, abstract; examples 1-187, tables 1-9).</p> <p>It is not clear from the application as a whole what problem could be solved by the distinguishing feature "at least 0.001 wt.% Gd" in claim 8 in relation to D1 (PCT Article 33(3)).</p> <p>4. As a final comment, it should be noted that dependent claim 11 contradicts claim 1 with regard to the Zn content (PCT Article 6).</p>